

RECEIVED
CENTRAL FAX CENTER

JUN 03 2009

**UNITED STATES DEPARTMENT OF COMMERCE
UNITED STATES PATENT AND TRADEMARK OFFICE**

IN ACCORDANCE WITH THE PATENT COOPERATION TREATY

Invention: **IMPROVEMENTS IN TRUNCHEONS
PROTECTIVE BATONS AND CANES**
US National Appln. Serial No.: **10/578,468**
US National Filing Date: **05/05/2006**
International Application No.: **PCT/CA2004/001933**
International Filing Date: **08/11/2004**
Priority Date: **06/11/2003**
Priority Appln. No.: **CANADA 2,453,171**
Applicant: **SITEMAN, WALTER DENIS**
Examiner: **Robert K. Nichols II**
Group Art Unit **1645**
Our File: **SITG008**

FAX NO. 571-273-8300
Director of the USPTO

June 2, 2009

U.S. Patent and Trademark Office
Mail Stop PCT
Post Office Box 1450
Alexandria, VA, 22313-1450
U. S. A.

Dear Sir:

Applicant is pleased to acknowledge delivery of the Official Report dated March 3, 2009 responsive to Applicant's communication filed January 21, 2009 wherein Applicant elected with traverse Species 2- Figures 5-8 and 11 (claims 1, 2, 3, 6, 8 and 10).

Election Restrictions

The Examiner's outline of his approach to upholding the Requirement to Elect and deeming such requirement as proper and has made same FINAL, has been carefully considered.

The objection to such decision is reiterated here in that it appears that in his reasons the Examiner has given more weight to the intended normal use of the identified specific instruments named in the dependent claims rather than the claimed combination of a **common element** of each such named instrument of a much simplified arrangement for installing and presenting a repellent spray in **conjunction** therewith; which not only better enhances the overall utility of such instruments in the hands of the participants but which in such simplicity indeed lays the foundation for successful commercial exploitation.

Shortly then a baton, normally to be carried, also provides a defence to attack by using same as a "club" as would a truncheon or a cane. In the concept presented by Applicant those "species" so armed with Applicant's novel combination of open ended hollow handle portion therefore with a ready to discharge repellent spray securely anchored therein are all of a piece.

It is acknowledged however that the cited Rule 37 CFR 1.141 restricts a national application to one independent and distinct invention provided however that more than one species of an invention..... may be specifically claimed in **different** claims; and further provided as stated by the Examiner that such application include an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (S 1.75) or otherwise include all the limitations of the generic claim.

The CLAIMS

Applicant has carefully considered the bases for rejection of the elected claims and herewith submits amendment to same cancelling elected claims 1 and 2, submitting new claims 11 and 12 in their place and amending elected claims 2, 3, 6, 8 and 10 to conform and so place same in condition for acceptance.